

*REMARKS/ARGUMENTS*

In response to the Office Action mailed May 17, 2007, Applicants amend their application and request reconsideration. In this Amendment, no claims are newly cancelled and new claims 11-13 are added. Accordingly, claims 5-7 and 11-13 are pending.

The newly added claims 11-13 are identical to formerly pending claims 8-10. Those claims 8-10 had been cancelled because the Examiner had indicated in the Office Action mailed November 28, 2006, that those claims 5-7 were allowable subject only to a double patenting rejection. A Terminal Disclaimer was filed with respect to the patent that had already issued from a co-pending patent application cited by the Examiner, merely to advance the prosecution of the present patent application. At the same time and for the same reason, claims 8-10 were cancelled. Those claims, unlike claims 5-7, were not indicated to be allowable but were rejected over prior art.

In reply to the previous Amendment, the former indication of allowance of claims 5-7 was withdrawn and the same prior art rejection previously made against claims 5-7 and 8-10 was again imposed against claims 5-7. This rejection had first been made in the prosecution of this patent application on January 25, 2006. It is presumed the Examiner would now make that rejection as to all six pending claims and, for that reason, this Reply addresses that expected rejection yet again in order to move the prosecution of this patent application to the next logical step.

In the Office Action mailed 17, 2007, the Examiner objected to claim 6 as containing improper grammar. There was no improper grammar in claim 6. Rather, the Examiner has simply failed to read all of the claim language together. Nevertheless, to remove this non-issue from contention, claim 6 is amended insubstantially, merely to overcome the rejection as to form.

Claims 5-7 were rejected as unpatentable over Wittur (WO 99/16694) in view of Iyoda (JP 2000-086126).<sup>1</sup> This rejection is respectfully traversed, particularly as to the claims now presented.

According to the Office Action most recently mailed, as well as previous Office Actions in the protracted prosecution of this patent application, Wittur discloses an unnumbered base member corresponding to the base member of claim 5 that is disposed on the bottom of the hoistway. It is asserted that the "base member" in Wittur is the ground in Figure 2 of Wittur.

The continued assertion that a positively claimed structure, namely the base member, is not distinct from the "ground" that is the bottom of the hoistway has and continues to be unreasonable. The bottom of the hoistway is the bottom of the hoistway, be it ground, concrete, or some other material. It is for that reason that there is no reference number in Wittur with regard to any base member that is located at the bottom of the hoistway. There is no base member in Wittur.

The claim language of claim 5 shows that the base member cannot be the bottom of the hoistway because the base member of claim 5 is "disposed on the bottom of the hoistway". The claim language makes plainly apparent that the two elements, namely the claimed base member and the unclaimed bottom of the hoistway, are distinct because the base member and the ground are separately described in claim 5.

Iyoda makes no contribution regarding any such base member because all of the figures of Iyoda concern the upper part of the elevator hoistway and never show any part of the bottom of the hoistway.

Since there is no element in either Wittur or Iyoda that could correspond to the base member of claim 5, *prima facie* obviousness has never been established with respect to that claim, or claims 5-7, based upon those two publications.

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<sup>1</sup> The first named inventor's family name is Iyoda, the name used here, whereas the Examiner has continuously insisted on using the inventor's given name, Hiromi, although misspelled, in the Office Actions.

In making the rejection, the Examiner again acknowledged that there is no element in Wittur corresponding to the securing member of claim 5. For that element, reliance was placed upon Iyoda and the clamp 11 that is fastened to the mount member above the hoisting machine in the hoistway. The mount member is, in turn, mounted to the wall of the hoistway above the hoisting machine 6.

In the invention as defined by claim 5, the securing member, which is secured to the wall of the hoistway, is on the fixing member and between the base member that contacts the bottom of the hoistway and the mounting member that supports the hoisting machine. Thus, in the invention, as defined by claim 5, the securing member provides desired additional strength to the fixing member, counteracting the bending moment otherwise applied by the hoisting machine to the fixing member because the hoisting machine is not directly above the fixing member. Moreover, since the securing member is not in direct contact with the hoisting machine, as is the clamp 11 in Iyoda, vibrations from the hoisting machine are reduced, before being transmitted through the securing member to the wall of the hoistway. In addition, in the invention as defined by claim 5, the securing member is below the hoisting machine, whereas the clamp 11 is above Iyoda's hoisting machine.

Because of the foregoing differences between the asserted combination of Wittur and Iyoda and claim 5, claims 5-7, as presented here, are clearly patentable.

New claims 11-13 are presumably susceptible to the same rejection made with respect to claims 8-10 in the Office Action mailed November 18, 2006. Fundamentally, the rejection is identical to the rejection of claims 5-7, with some adjustment for the different language of claims 8-10, now claims 11-13, versus claims 5-7. Should this rejection be made, it is again traversed.

The same fundamental mistake discussed above with respect to the examination of claim 5 was made with respect to examined claim 8 and should not be made with respect to new claim 11. According to the rejection of claim 8 in the Office Action mailed November 28, 2006, Wittur describes an elevator comprising a hoisting machine disposed within a hoistway that has a floor and walls. Further,

according to that Office Action, the Wittur system includes “a base member, not numbered but shown as the ground in Figure 2 [of Wittur], on the bottom of the hoistway, on and supported by the floor of the hoistway...”.

The Examiner is respectfully requested to give careful attention to the precise language of claim 11. That language describes the hoistway as having a floor and describes the base member as supported by the floor of the hoistway. There is no reference to the ground and it is beyond unreasonable to assert that ground can be a base member that is supported by the ground, i.e., the floor of the hoistway. This part of the rejection as to all pending claims needs reconsideration and withdrawal.

The elevator apparatus of claim 11 includes a fixing member extending in the hoistway and fastened to the base member and the mount member. There is no fixing member disclosed in Wittur, contrary to the Office Action, that corresponds to the fixing member of claim 11.

The guide elements 3 and 4 in Figure 2 of Wittur do extend vertically within the hoistway, but the fixing member according to claim 11 extends not only vertically within the hoistway but is *between and fastened to* the base member and the mount member. There is no member in Figure 2 of Wittur that meets all of those requirements. The guide elements 3 and 4 are fastened to Wittur's member 6. According to the Office Action, the mount member of claim 11 corresponds to the member 6 of Figure 2 of Wittur. Thus, there is no remaining element in Wittur's Figure 2 that could be the base member of claim 11.

The Examiner's insistence that the ground corresponds to the base member is simply wrong. How can the fixing member of claim 8 be *fastened to* a non-existent element that is the ground? The answer is that there is no corresponding element in Wittur and because of these differences between the structure of claim 11 and Wittur, the rejection is erroneous as to claims 11-13.


The Examiner again acknowledged that Wittur does not describe a securing member as in claim 11. Iyoda was again relied upon as supplying that claimed element. However, for the reasons provided above, Iyoda fails to describe or suggest

the securing member of the final paragraphs of both of claims 5 and 11. The same arguments regarding Iyoda previously presented with respect to claim 5 are incorporated by reference with respect to claim 11 without again being repeated at length.

Because new claim 11 is patentable over Wittur in view of Iyoda, discussion with respect to potential rejections of claims 12 and 13 is neither necessary nor provided.

Reconsideration and allowance of claims 5-7 and 11-13 are earnestly solicited.

Respectfully submitted,

  
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